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1951

File No. Smoke Nuisance II/51 (N).

Legal Department

B

BRANCH

Subject:— Notifications under the Bombay Smoke Nuisance Act — 1912

File No. Smoke Nuisances II/51 (IV)

Gen. 194 e.

416-B

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19 51. **File No.** Smoke Nuisance II/51 (N)

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P-5
E

Subject:— Notifications under the Bombay Smoke Nuisances Act — 1912.

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The object of the Labour and Housing Department is to limit the opration of the notification at page 37 ante to a particular area in the City of Bombay It is proposed to carry out that object by the addition of a proviso to the notification. Section 7 of the Bombay Smoke Nuisances Act, 1912, empowers the State Government to prohibit the erection of a particular kind of furnaces. The proviso to sub-section (1) contains an exemption in the case of erecting furnaces. No power is given to the State Government toadd any other exemption. The addition of an exemption by means of a proviso to the notification issued under section 7 will not be in order. It is true that the notification itself applies to the whole of the City. Section 7 requires that it can be restricted to any specified area. If, therefore, it is the intention of the Labour and Housing Department to restrict the operation of the notification, it can be done by the amendment of the notification i.e. by limiting its operation to a specified part of the City. The proposal to give exemption to those furnaces which are being removed from one part to another will not be warranted by the provisions of the section.

Sd. J.R.Dhurandhar,
20/3

Remembrancer of Legal Affairs.

U.R. to L. & H.D. No. 4620, dated the 22nd March 1951.

VGP. 4-7-56.

In substance there is very little difference between the draft prepared by the Labour and Housing Department at page 80 of that Department File No.222/48 which was sent to the R.L.A. for scrutiny on the last occasion and the draft now prepared by Messrs. Mulla and Mulla in their letter at page 37 ante. The latter draft is not free from legal objection for the reasons given in R.L.A.'s opinion No. 4620 dated 22nd March 1951. The only way to achieve the object in view as stated in that opinion is to issue a fresh notification in place of the Labour Department's notification No.222/48 dated the 28th June 1949 on the lines of the draft sent herewith. Under this notification the Worli area can be excluded from the scope of the notification so that a factory of Messrs Mercury Casting Works, Mazagon can be erected in the Worli area without contravening the provisions of the notofication.

Sd. J.R.Dhurandhar.
26/5

Remembrancer of Legal Affairs.

U.R. to L. & H.D. No. 8357 dated the 28th May 1951.

VGP. 4-7-56.

NOTIFICATION.

Labour and Housing Department,
Bombay Castle, 1951.

Bombay Smoke Nuisances Act 1912.

No. .- In exercise of the powers conferred by clause (b) of sub-section (1) of section 7 of the Bombay Smoke-Nuisance Act, 1912 (Bom VII of 1912) and in supersession of Government Notification in the Labour Department No. 222/48 dated the 28th June 1949, the Government of Bombay is pleased to prohibit within such areas of Greater Bombay as are specified in the Schedule hereto appended the erection of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting pudding or rolling of iron or other metals or for the conversion of pig-iron into wrought iron.

SCHEDULE.

(Here enter Wards of Greater Bombay in which erection of factory is to be prohibited

By order of the Governor of Bombay.

Secretary to Government.

VGP. 4-7-56.

NOTIFICATION.

Labour and Housing Department,

Bombay Castle, August 1951.

Bombay Smoke Nuisances Act, 1912.

No. 1602/48:- In exercise of the powers conferred by clause (a) of sub-section (1) of section 7 of the Bombay Smoke-Nuisance Act, 1912 (Bom. VII of 1912), the Government of Bombay is pleased to prohibit the erection of any lime kiln within the limits of Greater Bombay.

By order of the Governor of Bombay.

Secretary to Government.

VGP. 4-7-56.

The draft notification on page 23 ante, as slightly amended is in order.

2. The question for R.L.A.'s consideration is whether addition to or extension of kilns amounts to the erection of a kiln within the meaning of clause (a) of section 7(1) of the Bombay Smoke-Nuisances Act, 1912. The answer is in the negative. The erection of a brick tile or lime kiln in contravention of a notification issued under sub-section (1) of section 7 is made an offence under sub-section (2) of the section and as such the provisions of the section will be strictly construed. They will not be held as including additions to or extension of Kilns. Where the intention is that "erection" should include additions or enlargements that is made clear by specific provisions in the statute. (Cf. section 2(iii) of the Bombay Building (Control on Erection) Act, 1948).

Sd.

for Remembrancer of Legal Affairs.

U.R. to L. & H.D. No. 12900, dated the 10th August 1951.

VGP. 4-7-56.